

South Dakota Campaign Finance Reporting Guidelines 2008



Issued by
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These campaign finance reporting guidelines have been prepared to assist in the preparation of the reports of receipts and expenditures and statements of financial interest required by South Dakota law. The chapter of South Dakota Codified Laws governing campaign finance reporting is SDCL 12-27 which is available at legis.state.sd.us/statutes/index.aspx. Please familiarize yourself with the law. We have referenced the Code throughout these guidelines to make it easier for you to find the right section of the law.

We have also included copies of all the reporting forms in this guideline book. Take time to identify the forms you will use for reporting your campaign receipts and expenditures, learn what is required and then set up your records accordingly. We will send blank forms to each candidate and political committee prior to the reporting deadline.

Candidates will receive the forms and should work with their committee treasurers to assure that all reports are complete and filed on time. The new law establishes a \$50 per day penalty for late filing. It is prudent to organize your campaign records so that reports can be easily compiled in a timely manner. Reports are due in the filing office by 5:00pm on the deadline day NOT postmarked on the deadline day.

Computer generated forms that are similar to the approved forms are acceptable. The Secretary of State's office has made software available which you can use to prepare and print the campaign finance report. Information on obtaining this software is contained in this guide.

Be sure to keep a copy of your completed report. This will assist in completing the next report. Please do not duplicate information from an earlier report as the reports are consecutive, not cumulative. If you want a written acknowledgement of the filing of your report, please include a stamped self-addressed envelope.

We are willing to assist you in any way we can. Please call for further information or assistance.

Sincerely,

Chris Nelson
Secretary of State

Campaign Finance Disclosure Reporting Schedule

Political Committee Type	Disclosure Statement Type	Appendix	Complete Through	Due Date	Comments
All Political Committees*	Statement of Organization	A	N/A	Fifteen days after receiving contributions or paying expenses in excess of five hundred dollars or otherwise meeting candidate qualifications.	If contributions or expenditures fall within thirty days of any statewide election the statement is due within forty-eight hours.
Political Party	Pre-primary	B	May 19, 2008	May 23, 2008	State political party committees only
All Political Committees*	Pre-primary	B	May 19, 2008	May 23, 2008	No candidate without opposition in a primary election is required to file a campaign financial disclosure statement prior to a primary election.
Ballot Question Committee	Mid-year	B	June 30, 2008	July 5, 2008	
All Political Committees*	Pre-general	B	October 20, 2008	October 24, 2008	
Political Party	Pre-general	B	October 20, 2008	October 24, 2008	
All Political Committees*	Year-end	B	December 31, 2007 December 31, 2008	February 1, 2008 February 2, 2009	No statement is required to be filed by a candidate campaign committee for legislative or county office on February first following a year in which there is not an election.
Political Party	Year-end	B	December 31, 2007 December 31, 2008	February 1, 2008 February 2, 2009	
Statewide candidate campaign committee, political action committee, ballot question committee, or political party	Late contribution supplemental statement	C	N/A	Must be received by the Secretary of State within forty-eight hours of the receipt of the contribution.	Required if a committee receives a contribution of five hundred dollars or more within the fourteen days immediately prior to an election for which a campaign finance disclosure statement may be filed.

Campaign Finance Disclosure Reporting Schedule

Political Committee Type	Disclosure Statement Type	Appendix	Complete Through	Due Date	Comments
Any person, qualified non-profit corporation, or organization	Communication Statement	D, Section 1 or 2 depending on type of contributor.	N/A	Must be received within forty-eight hours of the time that the communication is disseminated, broadcast, or otherwise published.	Required to be filed for any independent expenditure totaling one thousand dollars or more.
Any person, political committee, political party, or organization	Communication Statement	D, Section 3	N/A	Must be received within forty-eight hours of the time that the communication is disseminated, broadcast, or otherwise published.	Required to be filed for any electioneering communication within 60 days of an election totaling one thousand dollars or more.
Candidates for federal, statewide and legislative office. Candidates for county commissioner, school board member in a school district with more than 2000 students and commissioner, council member or mayor in any first class municipality.	Statement of Financial Interest	F	N/A	Must be filed 15 days after convention nomination or filing of nominating petition.	
Local Ballot Question Committees	Pre-election, year-end and supplemental	B, C	The fifteenth day prior to the election.	Second Friday prior to the election.	Ballot question committees in counties with population greater than 5,000 and school districts with more than 2,000 average daily membership.

* A Political Committee includes Political Action Committees, Ballot Question Committees, Statewide and Legislative Candidate Committees and County Candidate Committees in Counties with population greater than five thousand.

Summary for Individuals

As an individual active in the political process you should be aware of some provisions in State Law that regulate campaign finance.

If you contribute to political campaigns you should be aware of the contribution limits that exist. These provisions limit the annual contribution amount you make to any one political committee or political party. You may contribute to an unlimited number of political committees and political parties, but you may not contribute more than the following to any one organization during any one calendar year.

Statewide Candidate Campaign Committee: \$4,000
Legislative or County Candidate Campaign Committee: \$1,000
Political Party: \$10,000
Political Action Committee: \$10,000
Ballot Question Committee: no limitation

When can you expect to see campaign finance disclosure statements from political organizations? Following are the filing deadlines for filing during an election year:

Pre-election: Due by 5:00 p.m. on the second Friday prior to each primary and general election complete through the fifteenth day prior to that election.

Supplemental: Must be filed if any candidate campaign committee for statewide office, political action committee, ballot question committee, or political party receives a contribution of five hundred dollars or more within fourteen days immediately prior to an election. The statement shall be filed within forty-eight hours of the receipt of the contribution.

Year-end: Due by 5:00 p.m. February first.

Disclosure statements are filed consecutively and only include contributions and expenditures occurring since the last statement filed.

The disclosure statements are available on the Secretary of State's internet website, www.sdsos.gov, and in the Secretary of State's Capitol office located at: 500 East Capitol Avenue, Suite 204, Pierre, SD, 57501.

The disclosure statements are received by the Secretary of State, reviewed for completeness, scanned and posted on the internet as soon as possible. No information on contents of statements will be relayed over the telephone. Anyone desiring specific information must view the reports and extract the information desired.

Introduction and Legal Basis

Disclosure of contributions to the political process lies at the heart of our democracy. In 2007 the State Legislature completed the task of reforming the laws governing campaign finance in South Dakota for the first time in over 30 years. This document serves as a guide to compliance for any person or organization required to disclose information required by the Act.

The responsibility for filing campaign finance disclosure statements is squarely on the shoulders of the treasurer of any political committee or political party. This guide will help you understand the responsibility each political committee holds in complying with the law. If you are the treasurer of a political party or political committee you are strongly urged to become familiar with your duties and the filing deadlines. There are both civil and criminal penalties for violations--including a daily \$50 penalty for reports that are not received by the legal deadline.

If you are an experienced treasurer for a political party or political committee you will find the information required on the disclosure forms to be somewhat similar as in the past. We have done our best in developing forms that are easy to complete.

Feel free to contact us with any questions or comments.

Political Committee Registration (SDCL 12-27-2 thru 12-27-6)

Registration of a political committee is the first step. You can find the registration form in Appendix A of this guide. Every political committee must be registered not later than fifteen days after the date upon which the committee made contributions, received contributions, or paid expenses in excess of five hundred dollars unless such activity falls within thirty days of any statewide election in which case the statement of organization shall be filed within forty-eight hours.

Any candidate for public office shall organize a candidate campaign committee not later than fifteen days after becoming a candidate and shall file a statement of organization.

The candidate or treasurer of a political committee shall file an updated statement of organization not later than fifteen days after any change in the information contained on the most recently filed statement of organization.

A political committee that regularly files a campaign finance disclosure statement with the Federal Election Commission is not required to file a statement of organization or any other statement required by South Dakota's campaign finance regulations.

Treasurer Duties (SDCL 12-27-29)

All responsibility for campaign financial records rests with the treasurer of the committee or political party. The treasurer of a political committee and political party is required to maintain and preserve detailed and accurate records of the following:

- (1) Each contribution and in-kind contribution received by the political committee or political party;
- (2) In the case of a ballot question committee, the information required by section 19 of this Act for any organization contribution;
- (3) Each loan received or made by the political committee or political party;
- (4) Each refund, rebate, interest, or other income received by the political committee or political party;
- (5) All receipts, invoices, bills, canceled checks, or other proofs of payment, with an explanation of each, for each expenditure;
- (6) The name and address of any financial institution where an account or depository for the political committee or political party is maintained including the account number.

The treasurer is required to maintain and preserve the records for a period of seven years or three years past the date of filing the termination statement for the election for which the contribution or expenditure was made, whichever is earlier. Any violation of these duties is a Class 1 misdemeanor.

Contribution Limitations (SDCL 12-27-7 thru 12-27-10)

Contributions from individuals are limited to the following amounts in any calendar year.

Statewide Candidate Campaign Committee: \$4,000

Legislative or County Candidate Campaign Committee: \$1,000

Political Party: \$10,000

Political Action Committee: \$10,000

Ballot Question Committee: no limitation

There is no limit to the amount any candidate or the candidate's immediate family may contribute to that candidate's campaign committee. Please see Appendix G for the definition of "Immediate family".

Types of Unlimited Contributions

- Individuals can contribute to an unlimited number of political committees and political parties in amounts up to the contribution limit set in law for each committee or party.
- Political committees and political parties can contribute to an unlimited number of candidates or committees.
- There is no limit to the amount any political committee or political party can contribute to any other political committee or political party.

Contributions that Exceed Limitation

If a contribution is received that exceeds the contribution limit (or exceeds the limit in the aggregate when combined with other contributions from the individual during the calendar year) the treasurer must return the contribution to the contributor. It is a Class 1 misdemeanor for a political committee or political party to accept a contribution from an individual that exceeds the contribution limit.

Anonymous Contributions (SDCL 12-27-2 thru 12-27-6)

Every contribution must include the name and residence address of the contributor. If this information is not provided, the treasurer may not deposit the contribution. If any contribution, money, or other thing of value is received from an unknown source the treasurer must donate it to a nonprofit charitable organization.

Fictitious Names on Contributions Not Allowed (SDCL 12-27-11)

No person may make a contribution in the name of another person, make a contribution in a fictitious name, make a contribution on behalf of another person, or knowingly permit another to use his or her name to make a contribution.

Gifts Disguised as Contributions Not Allowed (SDCL 12-27-12)

No person may make a contribution disguised as a gift and no candidate may accept a contribution disguised as a gift. This simply means that gifts are contributions and fall under the same limitations. It would be unlawful for someone to give a candidate a "personal" gift while intending the gift to be used as a contribution. Although the definition of "contribution" already includes "gift", this section provides more substance to the definition.

What items or services are not considered contributions? (SDCL 12-27-1)

Following is a list of items that are not considered contributions:

- Services provided by a person as a volunteer for or on behalf of any candidate, political committee, or political party.
- The free or discounted use of a person's residence by any candidate, political committee, or political party.
- The purchase of any item of value or service from any political committee or political party. The purchase price of the item may not exceed the fair market value and may not include any intent to contribute beyond the item's value. Income from these purchases must be included as "other receipts" on the political committee or political party financial disclosure statement.
- The costs associated with the administration and solicitation of a contribution for a political action committee established by an organization and associated expenses, including the use of an organization's real or personal property located on its business premises for such purposes.
- The nominal use of a candidate's real or personal property or the nominal use of resources available at a candidate's primary place of business.

Contributions from Organizations (SDCL 12-27-1, 12-27-18)

The term "organization" is defined broadly in the campaign finance statutes. See Appendix G for the full definition of the term. Essentially it means a corporate entity, partnership, association, club, labor union, or any entity organized in a corporate form under federal law or the laws of this state, or any group of persons acting in concert which is not defined as a political committee or political party.

Organizations, as defined in the law, may not make contributions to any candidate campaign committee, political action committee, or political party or make any independent expenditure expressly advocating the election or defeat of a candidate.

An organization may make unlimited contributions to any ballot question committee organized solely for the purpose of influencing an election on a ballot question and unlimited independent expenditures for the placement of a ballot question on the ballot or the adoption or defeat of a ballot question.

An organization may also create and administer a political action committee.

Organizations contributing to Ballot Question Committees (SDCL 12-27-19)

With any contribution made by an organization to a ballot question committee, the law requires information about the organization (Appendix E) also be submitted to the treasurer. Without this information the treasurer is not allowed to deposit the contribution. Any organization that makes a contribution to a ballot question committee shall:

- (1) Be filed as a domestic or foreign entity in good standing with the Office of the Secretary of State of this state, or
- (2) If the organization is not filed as a domestic or foreign entity in good standing with the Office of the Secretary of State of this state, the organization shall include with any contribution to a ballot question committee a statement providing the following information:
 - (a) The name of the organization;
 - (b) The name of the state or country under whose law the organization is incorporated or organized; and
 - (c) The street address of the organization's principal office; or
- (3) However, if subdivisions (1) and (2) do not apply to the organization, then the organization shall include with any contribution to a ballot question committee a statement providing the following information:
 - (a) The name of the organization;
 - (b) The street address of the organization's principal office; and
 - (c) The names and street addresses of any owners, directors, or officers of the organization including the name and street address of the person authorizing the contribution.

Further, if any contribution from an organization to a ballot question committee exceeds ten thousand dollars in the aggregate, and the organization is comprised of twenty or fewer members or shareholders, the contribution shall include a statement with the name and address of each shareholder or member who owns ten percent or more of the organization. The ballot question committee shall disclose all information provided in the statement in the applicable campaign financial disclosure statement or supplemental statement.

If any of the information required by this section is not delivered to the treasurer of the ballot question committee, the treasurer shall return the contribution. Any violation of these requirements is a Class 1 misdemeanor.

Financial Disclosure Statements (SDCL 12-27-22 thru 12-27-28)

The campaign financial disclosure statement is the most visible part of the disclosure process. This is the document that contains the information most utilized by the public. The disclosure statement provides the public with a financial picture of the campaign including information on contributors and expenditures.

All political committees (includes legislative and statewide candidate committees, political action committees, ballot question committees, and political parties) are required to file periodic financial disclosure statements.

The campaign financial disclosure form requires information on contributions received and expenditures made by the political committee or political party during the calendar year up to the cut off date of the reporting period. A full copy of the campaign financial disclosure form can be found in Appendix B of the Guide. Each schedule of the report includes introductory information to aid in completing the form with the proper information required by law.

When are Disclosure Statements Due?

The pre-election statement must be received by the secretary of state and filed by 5:00 p.m. on the second Friday prior to each primary and general election complete through the fifteenth day prior to that election.

The year-end statement must be received by the secretary of state and filed by 5:00 p.m. each February first. This must include information through the last day of the preceding calendar year.

A supplemental statement must be filed if any candidate campaign committee for statewide office, political action committee, ballot question committee, or political party receives a contribution of five hundred dollars or more within fourteen days immediately prior to an election. The statement shall be filed within forty-eight hours of the receipt of the contribution.

Ballot question committees are required to file an additional mid-year campaign finance disclosure statement. The statement must be received by the secretary of state and filed by any statewide ballot question committee by 5:00 p.m. on the fifth day of July during the year in which the ballot question is to be voted on complete through the month of June.

Any statement filed shall be consecutive and shall cover contributions and expenditures since the last statement filed.

Exceptions for candidate campaign committees:

- 1) No candidate without opposition in a primary election is required to file a campaign financial disclosure statement prior to a primary election.
- 2) No statement is required to be filed by a candidate campaign committee for legislative or county office on February first following a year in which there is not an election.

Exceptions for political parties and political committees:

- 1) No county, local, or auxiliary committee of any political party qualified to participate in a primary or general election is required to file a campaign financial disclosure statement prior to a statewide primary election.
- 2) A political committee that regularly files a campaign finance disclosure statement with the Federal Election Commission is not required to file a campaign finance disclosure statement.

Civil Penalty for Late Filing (\$50 per day): The failure to timely file any statement, amendment, or correction required subjects the treasurer responsible for filing to a civil penalty of fifty dollars per day for each day that the statement remains delinquent. The civil penalty shall be in addition to any criminal sanctions.

Where can I view filed disclosure statements?

The disclosure statements are available on the Secretary of State's internet website, www.sdsos.gov, and in the Secretary of State's Capitol office located at: 500 East Capitol Avenue, Suite 204, Pierre, SD, 57501.

Advertising Disclaimer and Disclosure Requirements (SDCL 12-27-15)

Any printed material or communication made by a political committee or political party that expressly advocates (See the definition of this term in the Appendix G) must prominently display or clearly speak the statement: "Paid for by (Name of candidate, political committee, or political party)." This requirement does not apply to buttons, balloons, pins, pens, matchbooks, clothing, or similar small items upon which the inclusion of the statement would be impracticable.

Disclosure Requirements on Independent Expenditures (SDCL 12-27-16)

Type 1:

Any person or "qualified nonprofit corporation" (See Definition in Appendix G) that makes an independent expenditure for a communication which expressly advocates for or against a candidate, public office holder, ballot question, or political party totaling one thousand dollars (\$1,000) or more is required to file a statement with the Secretary of State.

The communication disclosure statement must include the following information (See Appendix D):

- 1) name of the person or qualified nonprofit corporation
- 2) the street address, city, and state of the person or qualified nonprofit corporation
- 3) the name of each candidate, public office holder, ballot question, or political party mentioned in the communication

- 4) the amount spent on the communication
- 5) a description of the content of the communication

This statement must be received by the Secretary of State within forty-eight hours of the time that the communication is disseminated, broadcast, or otherwise published.

Type 2: (SDCL 12-27-19)

Any "organization" (See definition in Appendix G) must meet the same requirements as explained above for Type 1 and if the organization is comprised of twenty or fewer members or shareholders, the statement must also include the name and address of each shareholder or member who owns ten percent or more of the organization.

Exceptions to Types 1 and 2:

Specific communication methods are exempted from the disclosure requirements on independent expenditures. None of the following types of communications require disclosure:

- 1) Any news articles, editorial endorsements, opinion, or commentary writings, or letter to the editor printed in a newspaper, magazine, flyer, pamphlet, or other periodical not owned or controlled by a candidate, political committee, or political party;
- 2) Any editorial endorsements or opinions aired by a broadcast facility not owned or controlled by a candidate, political committee, or political party;
- 3) Any communication by a person made in the regular course and scope of the person's business or ministry or any communication made by a membership organization solely to members of the organization and the members' families; and
- 4) Any communication that refers to any candidate only as part of the popular name of a bill or statute.

Electioneering Communications (SDCL 12-27-17)

An "electioneering communication" or "issue ad" does not directly urge people to vote for or against a candidate. The ad usually discusses an issue and states why a candidate should support or oppose that issue. It may say: "Call legislator Smith and urge her to vote yes on this important issue."

Issue ad disclosure enables voters to determine who is financing these ads and how much they are spending on them. South Dakota requires disclosure of issue ads if they cost more than \$1,000, are made 60 days before an election and identify a candidate running in the election or a public office holder.

The communication disclosure statement must include the following information (See Appendix D):

- 1) name of the person, political committee, political party, or organization authorizing the communication;

- 2) the street address, city, and state of the person, political committee, political party, or organization authorizing the communication;
- 3) the name of the candidate or public office holder mentioned;
- 4) the amount spent on the communication;
- 5) a description of the content of the communication

This statement must be received by the Secretary of State within forty-eight hours of the time that the communication is disseminated, broadcast, or otherwise published.

Exceptions to Electioneering Communication Disclosure Requirement:

Specific communication methods are exempted from the disclosure requirement on electioneering communications. None of the following types of communications require disclosure:

- 1) Any news articles, editorial endorsements, opinion, or commentary writings, or letter to the editor printed in a newspaper, magazine, flyer, pamphlet, or other periodical not owned or controlled by a candidate, political committee, or political party;
- 2) Any editorial endorsements or opinions aired by a broadcast facility not owned or controlled by a candidate, political committee, or political party;
- 3) Any communication by a person made in the regular course and scope of the person's business or ministry or any communication made by a membership organization solely to members of the organization and the members' families; and
- 4) Any communication that refers to any candidate only as part of the popular name of a bill or statute.

Government Prohibitions (SDCL 12-27-20 and SDCL 12-27-21)

South Dakota has a clear policy prohibiting government entities from influencing political campaigns. The state, an agency of the state, and the governing body of a county, municipality, or other political subdivision of the state may not expend or permit the expenditure of public funds for the purpose of influencing the nomination or election of any candidate, or for the petitioning of a ballot question on the ballot or the adoption or defeat of any ballot question.

South Dakota also prohibits any candidate, political committee, or political party from accepting any contribution from any state, state agency, political subdivision of the state, foreign government, Indian tribe, federal agency, or the federal government. A violation of this statute is a Class 1 misdemeanor.

However, these restrictions do not limit the freedom of speech of any officer or employee of the state or any political subdivision in his or her personal capacity. The state, its agencies, or the governing body of any political subdivision of the state may present factual information solely for the purpose of educating the voters on any ballot question.

Application of Law to Local Government Elections (SDCL 12-27-39 & 42)

The South Dakota campaign finance disclosure statutes apply to county offices and ballot questions in counties with population greater than five thousand according to the most recent Federal census and school district offices and ballot questions in school districts with more than two thousand average daily membership.

School districts covered by these statutes must conform to the contribution limits applicable to legislative offices.

The requirements of the State law do not apply to any township, municipal or special purpose district offices or ballot questions. However, the governing body of any county, township, municipality, school district, or special purpose district may adopt these requirements, with or without amendments, by passing an ordinance or resolution that makes the requires applicable to the jurisdiction.

Any statement, form, or filing required by this Act shall be filed with the county auditor in the case of a county office election, with the school business manager in the case of a school district office election, or with the person in charge of the election in the case of other political subdivisions or special purpose districts.

Filing Options (SDCL 12-27-30 and SDCL 12-27-41)

Remember that campaign finance disclosure filings must be received by the deadline. Any disclosure statement may be filed by fax or electronic mail. To be timely filed, any statement received by facsimile device or electronic mail shall be legible and readable when received by the means it was delivered. The original document must be filed with the secretary of state within one week following the date the facsimile or electronic mail transmission was received.

Late filings are subject to a civil penalty of \$50 per day for each day the filing remains late. Additional criminal penalties may also apply to any person who intentionally makes any false, fraudulent, or misleading statement or entry in any statement.

Penalties (SDCL 12-27-30, 33 and 34)

Many of the requirements carry criminal penalties for violators.

Late filings subject the treasurer responsible to a civil penalty of fifty dollars per day for each day that the statement remains delinquent.

No information contained on the public documents may be sold or utilized for any commercial purpose or for the purpose of soliciting contributions.

Any person who intentionally makes any false, fraudulent, or misleading statement or entry in any statement of organization, campaign finance disclosure statement, other statement, or amendment filed pursuant to this Act is guilty of a Class 5 felony.

Enforcement (SDCL 12-27-35, 36, 37, 39, 40 and 43)

The attorney general is responsible for investigating any violations related to the campaign finance regulations in South Dakota. The enforcement provisions provide the attorney general with tools to make sure that the public has access to the information required by law in a timely manner--with all efforts focused on delivering good information to the public before Election Day. To do this, the attorney general may elect to file a civil action where the court may impose a civil penalty in the amount provided by statute, or if not provided, in an amount not to exceed ten thousand dollars for each violation.

While enforcing the requirements, the attorney general is authorized to inspect or examine any committee or party records required to be maintained. It is a Class 1 misdemeanor for any person having charge, control, or possession of political committee or political party records to neglect or refuse the attorney general reasonable access to any records required to be maintained which are necessary for enforcement.

The attorney general is required to keep each record inspected or examined confidential except when the records are used to enforce provisions associated with a criminal or civil action.

In county and school elections the states attorney is responsible for enforcement. Other subdivisions that choose to adopt the campaign finance regulations should outline specifically who is responsible for enforcement.

Reporting Software

The Secretary of State's Office has software for you to prepare your campaign finance reports. The software is free and its use is voluntary. This software provides an easy, neat and more accurate method of completing these forms. Two different programs are offered as described below. The two programs are called "CFR" and "CFRplus".

CFR

- Computerized Campaign Finance Report
- Requires Microsoft Excel 97 spreadsheet software.
- Reporting form only: This takes the place of the long hand report form currently being used.
- You continue to use your current method of record keeping.
- At the end of the reporting period, you compile your receipts and expenditures, enter the data into CFR, complete the cover page of the campaign finance report form and print.
- Neat, easy and accurate
- You enter the data - the program performs the calculations.
- One file - CFR.xls.

CFRplus

- Computerized campaign record keeping system and campaign finance reporting program.
- Uses Microsoft Access 97 to record contributors, contributions, other income, loans and expenditures for your campaign as well as providing a checkbook ledger.
- All income and expense data is imported into a Microsoft Excel 97 spreadsheet to prepare the campaign finance report.
- Automatically separates itemized and un-itemized contributions by reporting period.
- A complete campaign finance reporting system.
- Two files - CFR.mdb and CFR2.xls.

These files may be ordered by emailing a request to: elections@state.sd.us or by mailing a request to Secretary of State - Elections, 500 E. Capitol, Pierre, SD 57501. Please indicate if you want CFR, CFRplus or both programs. Call (605) 773-3537 with any questions.

Quick Reference Guide

Any organization may:

- Make an independent expenditure for/against a public office holder, ballot question, or political party. If the total cost for the communication is \$1,000 or more the organization must file a disclosure statement within 48 hours.
- Make an electioneering communication. If the communication is \$1,000 or more and is made within 60 days of an election the organization must file a disclosure statement within 48 hours.
- Make contributions to ballot question committees. Contributions to ballot question committees from certain types of organizations require additional disclosure be included with the contribution. No organization may make a contribution to a candidate campaign committee, political action committee, or political party.
- Create a political action committee or ballot question committee.

Any person may:

- Make contributions to candidates, political action committees, ballot question committees or political parties. The following limits apply during any calendar year:

Legislative candidate:	\$1,000
Statewide candidate:	\$4,000
Political Action Committee:	\$10,000
Political Party	\$10,000
Ballot Question Committee:	No limit
- Make an independent expenditure for/against a candidate, public officer holder, ballot question, or political party. If the total cost for the independent expenditure is \$1,000 or more the person must file a disclosure statement within 48 hours.

Note: If a person raises, collects or disburses contributions to influence the outcome of an election and is not simply making a contribution to a political committee or political party, that person is considered a political action committee and is required to register as such with the Secretary of State and must follow the campaign finance disclosure reporting requirements.

Any political action committee or political party may:

- Make unlimited contributions to any political committee or political party.
- Make independent expenditures and electioneering communications.
- Create printed material or other communications. Any printed material or communication must display or clearly speak the statement: "Paid for by (Name of political action committee)." This disclaimer is not required on buttons, balloons, pins, pens, matchbooks, clothing, or similar small items upon which the inclusion of the statement would be impracticable.

- Accept contributions from individuals, PACs, and political parties.

Any candidate campaign committee may:

- Make unlimited contributions to any political committee or political party.
- Make independent expenditures and electioneering communications.
- Create printed material or other communications. Any printed material or communication must display or clearly speak the statement: "Paid for by (Name of political action committee)." This disclaimer is not required on buttons, balloons, pins, pens, matchbooks, clothing, or similar small items upon which the inclusion of the statement would be impracticable.
- Accept contributions from individuals, political action committees, and political parties.

Any ballot question committee may:

- Make independent expenditures and electioneering communications.
- Create printed material or other communications. Any printed material or communication must display or clearly speak the statement: "Paid for by (Name of political action committee)." This disclaimer is not required on buttons, balloons, pins, pens, matchbooks, clothing, or similar small items upon which the inclusion of the statement would be impracticable.

Statement of Organization

Candidates, Political Action or Ballot Question Committees

State of South Dakota

State law requires statewide and legislative candidate committees, political action committees (PAC) and ballot question committees to register with the Secretary of State. Candidate committees must register within fifteen days after becoming a candidate. Candidate committees that have not already filed a statement of organization, PACs and ballot question committees must register not later than fifteen days after the date upon which the committee made contributions, received contributions or paid expenses in excess of five hundred dollars unless such activity falls within thirty days of any statewide election in which case the statement of organization shall be filed within forty-eight hours.

Full Name of Committee: _____

Street Address: _____

Postal Address: _____

Name of Chair: _____

Chair Daytime Telephone Number: _____

Street Address: _____

Postal Address: _____

Name of Treasurer: _____

Treasurer Daytime Telephone Number: _____

Street Address: _____

Postal Address: _____

You must list the name, street address, postal address and telephone number of each financial institution where an account or depository is maintained.

Name of Financial Institution	Street and Postal Address	Telephone Number

If you are a political action committee or a ballot question committee, you must include a concise statement of your purpose and goals.

Statement of Purpose and Goals:

If you are a political action committee or a ballot question committee, you must list the full name, street address, and postal address of the organization with which the committee is connected or affiliated, or if the committee is not connected or affiliated with any one organization, the trade, profession, or primary interest of the committee.

Name of Organization: _____

Street and Postal Address: _____

Trade, profession, or primary interest of the committee: _____

☐

Check here if your committee is incorporated under federal or state laws for liability purposes only.

The following verification must be completed before submitting statement.

VERIFICATION OF PERSONS MAKING REPORT

We _____ (print both names legibly), certify that we have examined this statement and to the best of our knowledge and belief it is true, correct and complete. We also understand that failure to timely file any statement, amendment, or correction required subjects the treasurer responsible for filing to a civil penalty of fifty dollars per day for each day that the statement remains delinquent.

Date: _____

 Signature of candidate or chair

Date: _____

 Signature of treasurer

The candidate or treasurer of a political committee shall file an updated statement of organization not later than fifteen days after any change in the information contained on the most recently filed statement of organization.

Submit Statement of Organization to:
 Secretary of State, Elections Department
 500 East Capitol Ave., Ste 204
 Pierre, SD 57501

or fax to 605-773-6580 or email to kea.warne@state.sd.us

Fax and email images must contain the signature(s) and the original must be filed in our office within one week following the date the fax/email was received.

County, municipal and school candidates file with the person in charge of the local election.

Campaign Finance Disclosure Statement

State of South Dakota

County, municipal and school candidates file in the office where you filed your nominating petition. Statewide PACs, political party, ballot question and other committees file statement with the Secretary of State's Office.

Mail to Secretary of State's Office, Election Department, 500 E Capitol Ave., Ste. 204, Pierre, SD 57501-5070
Fax to 605-773-6580 or email to kea.warne@state.sd.us **Fax and email images must contain the signature and the original must be filed in our office within one week following the date the fax/email was received.**

☐ Check here if you are a legislative candidate filing a pre-primary or pre-general report and received and spent less than \$10,000. If so, you only need to complete pages 1 & lines 2 & 7 of page 8 of this report.

.....
See pages 9 & 10 of the Guideline Book for specific instructions on completing this report.

Name of Committee _____

Complete Street and Postal Address _____

Name of Person Making Report _____

Daytime Phone Number _____ Evening Phone Number _____

Email Address _____

If you are a candidate, what office are you seeking? _____

If you are a ballot question committee, indicate which measure(s) the committee was involved with during the reporting period and whether the measure was supported or opposed.

Type of Campaign Statement _____

Pre-election, year-end, mid-year (mid-year for ballot questions committees only), amendment, supplement or termination

.....
The following verification must be completed before submitting report.

VERIFICATION OF PERSON MAKING REPORT

I _____ (print name legibly), certify that I have examined this report and to the best of my knowledge and belief it is true, correct and complete. I also understand that failure to timely file any statement, amendment, or correction required subjects the treasurer responsible for filing to a civil penalty of fifty dollars per day for each day that the statement remains delinquent.

Date: _____

Signature of Treasurer

Schedule A – Direct Contributions

This schedule is used for reporting all direct contributions. You must keep a record of all contributors, but for this report you may combine all contributions of \$100 or less from individuals and enter this sum as unitemized contributions on the first line below. Any contribution of more than \$100 or aggregate during a calendar year from an individual and all contributions from political parties and PAC's must be entered as a separate item (itemized) giving the amount, name, residence address, city and state of the contributor. Any contribution from a federal political committee or political committee organized outside this state shall also include the name and internet website address of the filing office where the committee regularly files. Each type of contributor has their own section for itemization. This schedule may be duplicated if you need more space or you may attach additional sheets of paper.

Unitemized Contributions from Individuals:

*\$

Itemized Contributions from Individuals

[illegible]**Total of Itemized Contributions from Individuals:*** $\$$

Schedule A – Direct Contributions (continued)

Itemized Contributions from Political Parties

Party Name	Address	
		\$ _____

		\$ _____

Total of Itemized Contributions from Political Parties:

* $\$$

Itemized Contributions from South Dakota Political Action Committees (PAC's) or South Dakota candidate committees - All contributions from PAC's must be itemized.

[illegible]

Total of Itemized Contributions from South Dakota Political Action Committees and South Dakota Candidate Committees:

* $\$$

[illegible]

Report all non-cash contributions of goods or services and the estimated fair market value. If the contribution is from a federal political committee or political committee organized outside this state list the name and internet website address of the filing office where the committee regularly files their campaign finance report.

[illegible]

Total:

[illegible]

Schedule D - Establishing and Administration of Committee/Solicitation Costs

[illegible]

24

Schedule E – Expenditures

This schedule is to report all expenditures relating to a candidate's campaign. Categories have been provided for reporting common expenses. All other expenses should be listed. **All contributions to candidates and committees must be listed individually.**

[illegible]**Total Expenditures:**

Schedule F - Debts and Obligations Owed by Committee

This schedule is to report all of the committee's obligations which are incurred but unpaid at the end of the reporting period. If a service has been contracted but not billed, estimate the amount of the obligation. You must include the terms, interest rate and repayment schedule of each loan and the nature of each obligation.

[illegible]

Total Debt Owed by Committee

Schedule G – Loans Owed to Committee

This schedule is to report the amount of each loan owed to the political committee or political party. The amount of each loan made during the reporting period and the balance of each loan owed to the committee at the end of the reporting period must be itemized.

[illegible]

Total of Loans Made And Repaid During Reporting Period:

Net Loaned During Reporting Period (Amount Loaned minus Amount Paid)

Summary Page

This summary sheet will give a brief outline of all campaign finance activity during this reporting period. Please transfer all totals from the schedules previously completed.

Balance of cash and cash equivalents on hand, if any, at the beginning of		\$ _____
1. the reporting period:		
2. Receipts		
Schedule A - Direct Contributions	\$ _____	
Schedule B – In-Kind Contributions	\$ _____	
Schedule C – Other Income	\$ _____	
Schedule D - Establishing/Administration of Committee	\$ _____	
Total of all Receipts	\$ _____	
3. Total Monetary Receipts (A+C)		\$ _____
4. Candidate's Personal Contribution to Own Campaign		\$ _____
5. Monetary Loans to Candidate or Committee During Reporting Period		\$ _____
6. Monetary Loans Repaid During Reporting Period		\$ _____
7. Expenditures - Schedule E		\$ _____
8. Unpaid Obligations - Schedule F	\$ _____	
Monetary Loans Made by the Committee During the		
9. Reporting Period – Schedule G		_____
Monetary Loans Repaid to the Committee During the		
10. Reporting Period – Schedule G		_____
11. Amount on hand at the close of this reporting period.		
This should equal lines (1+3+4+5) – (6+7+9)		*\$ _____

***Note: You cannot end the reporting period with a negative balance.**

If you are a ballot question committee which received a contribution from an organization, please attach to this campaign finance disclosure statement, the Ballot Question Statement you received from the organization.

Campaign Finance Disclosure Statement Instructions

A sample of the campaign finance disclosure form is found in Appendix B of the guide. Additional copies of this reporting form may be obtained from the Secretary of State. Essentially the campaign financial disclosure form requires information on contributions received and expenditures made by the political committee or political party during the calendar year up to the cut off date of the reporting period. The following comments may assist proper completion of the forms.

Campaign finance disclosure statement shall include the following information:

Cover Page (Committee information, statement and signature):

- Political committee or political party name, street address, postal address, city, state, zip code, daytime and evening telephone number, and e-mail address;
- Type of campaign statement (pre-primary, pre-general, mid-year, year-end, amendment, supplement, or termination);
- If a ballot question committee, the ballot question number and whether the committee is for or against the measure;
- The statement shall include a certification that the contents of the statement is true and correct signed by the treasurer of the political committee or political party.

Schedule A (Monetary contributions from individuals):

- The total amount of contributions of one hundred dollars or less in the aggregate from one source received during the reporting period;
- The name, residence address, city, and state of each person contributing a contribution of more than one hundred dollars in the aggregate during the reporting period and the amount of the contribution. Any contribution from any political committee or political party shall be itemized. Any contribution from a federal political committee or political committee organized outside this state shall also include the name and internet website address of the filing office where campaign finance disclosure statements are regularly filed for the committee. If all of the information required is not on file, the political committee or political party may not deposit the contribution;

Schedule A - Continued (Contributions from political organizations):

- Any monetary or in-kind contribution made by the reporting political committee or political party to any political committee, political party, or nonprofit charitable organization shall be itemized;
 - *Comment: itemization is required for any contribution from a political committee or political party*

Schedule B (In-kind contributions from individuals):

- The statement shall contain the same information for in-kind contributions as for monetary contributions, and shall also include a description of the in-kind contribution;
 - *Comment: a good or service provided at no charge or for less than its fair market value is provided "in-kind". In-kind does not include the value of services provided by a person as a volunteer and the free or discounted use of any person's residence or office.*
- Upon the request of the treasurer, a person making an in-kind contribution shall provide all necessary information to the treasurer, including the value of the contribution;

Schedule C (Non-contribution income):

- A categorical description and the amount of the refunds, rebates, interest, sale of property, or other receipts not previously identified during the reporting period;

Schedule D (Administrative expenses for PAC):

- A categorical description and the amount of funds or donations by any organization to its political committee for establishing and administering the political committee and for any solicitation costs of the political committee;
 - *Comment: An organization can create a political committee and can use organization funds to establish and administer the political committee. This subdivision requires the organization describe and provide an amount for each category of expenses it has incurred for establishing and administering the committee.*

Schedule E (Expenditures by the committee):

- The expenditures made during the reporting period shall be categorized. Disbursements to consultants, advertising agencies, credit card companies, and similar firms shall be itemized into expense categories. Any contribution made by the reporting political committee or political party that is not in exchange for any item of value or service shall be itemized;
- The expenditures incurred but not yet paid during the reporting period and to whom the expenditure is owed;
 - *Comment: an expenditure has been incurred when an order for the good or service has been placed with the person or organization providing the good or service*
- The amount of each independent expenditure, as defined in this Act, made during the reporting period, the name of the candidate, public office holder, or ballot question related to the expenditure and a description of the expenditure;

Schedule F (Loans owed by the reporting committee):

- The total balance of loans owed by the political committee or political party;

- The balance of loans owed by the political committee or political party, itemized by lender's name, street address, city, and state, including the terms, interest rate, and repayment schedule of each loan;

Schedule G (Loans owed to the reporting committee):

- The total balance of loans owed to the political committee or political party;
- The amount of each loan made during the reporting period. The name, street address, city, and state of the recipient of the loan;
- The balance of each loan owed to the political committee or political party, itemized by name, street address, city, and state;

Summary Page (Balances and totals): *This page contains a summary of all the Schedules.*

- The balance of cash and cash equivalents on hand at the beginning of the reporting period;
- The total amount of all contributions received during the reporting period;
- The total amount of all in-kind contributions received during the reporting period;
- The total of refunds, rebates, interest, or other income not previously identified during the reporting period;
- The total of contributions, loans, and other receipts during the reporting period;
- The total value of loans made to any person, political committee, or political party during the reporting period;
- The total of expenditures made during the reporting period;
- The total amount of all expenditures incurred but not yet paid. An expenditure incurred but not yet paid shall be reported on each report filed after the date of receipt of goods or services until payment is made to the vendor. A payment shall be listed as an expenditure when the payment is made;
 - *Comment: an expenditure has been incurred when an order for the good or service has been placed with the person or organization providing the good or service*
- The statement shall state the cash balance on hand as of the close of the reporting period;
 - *Comment: the beginning balance must equal the ending balance from any previously filed report;*

NOTE: (Organization contributions to ballot question committees):

- If you are a ballot question committee and have received a contribution from an organization (see Appendix H for definition) please attach a copy of Appendix E or the submission you received from the organization to this disclosure statement.

Supplemental Statement

Candidates, Political Action, Political Party or Ballot Question Committees State of South Dakota

State law requires that if any candidate committee for statewide office, political action committee, ballot question committee, or political party receives a contribution of five hundred dollars or more within the fourteen days immediately prior to an election for which a campaign finance disclosure form may be filed, a supplemental statement shall be filed within forty-eight hours of receipt of the contribution.

Full Name of Committee: _____

You must list the name, street address, city and state of each contributor, the amount and date of each contribution of \$500 or more.

Name of Contributor	Street Address, City and State	Amount of Contribution	Date of Contribution

The following verification must be completed before submitting report.

VERIFICATION OF PERSON MAKING REPORT

I _____ (print name legibly), certify that I have examined this report and to the best of my knowledge and belief it is true, correct and complete. I also understand that failure to timely file any statement, amendment, or correction required subjects the treasurer responsible for filing to a civil penalty of fifty dollars per day for each day that the statement remains delinquent.

Date: _____

Treasurer Signature

Submit Supplemental Statement to:
Secretary of State, Elections Department
500 East Capitol Ave., Ste 204
Pierre, SD 57501
or fax to 605-773-6580
or email to kea.warne@state.sd.us

Fax and email images must contain the signature(s) and the original must be filed in our office within one week following the date the fax/email was received.

County, municipal and school candidates file with the person in charge of the local election.

Communication Statement

State of South Dakota

Complete each section that pertains to your type of expenditure or communication.

Section 1 – Independent Expenditure

State law requires any person or qualified nonprofit corporation that makes an independent expenditure for a communication which expressly advocates for or against a candidate, public office holder, ballot question or political party totaling one thousand dollars or more to file a statement within forty-eight hours of the time that the communication is disseminated, broadcast, or otherwise published.

Name of Person: _____

Name of Qualified Nonprofit Corporation or Organization: _____

Street Address, City and State: _____

List the name of each candidate, public office holder, ballot question or political party mentioned in the communication, the amount spent on the communication and a description of the content of the communication.

Name	Description of Content	Amount

Date: _____ Signature: _____

Section 2 – Independent Expenditure by Small Organization

State law requires if the independent expenditure is made by an organization comprised of twenty or fewer members or shareholders, this statement must also include the name and address of each shareholder or member who owns ten percent or more of the organization.

Name of Shareholder or Member	Street Address

Date: _____ Signature: _____

Section 3 – Electioneering Communication

State law requires any person, political committee, political party, or organization that makes a payment or promise of payment totaling one thousand dollars or more for a communication that clearly identifies a candidate or public office holder, but does not expressly advocate the election or defeat of the candidate or public office holder, and that is disseminated, broadcast or otherwise published within sixty days of an election, shall file a statement within forty-eight hours of the time that the communication is disseminated, broadcast, or otherwise published.

Name of Person: _____

Street Address, City and State: _____

List the name of each candidate, public office holder, ballot question or political party mentioned in the communication, the amount spent on the communication and a description of the content of the communication.

Name	Description of Content	Amount

Date: _____ Signature: _____

Submit Statement of Organization to:
 Secretary of State, Elections Department
 500 East Capitol Ave., Ste 204
 Pierre, SD 57501
 or fax to 605-773-6580
 or email to kea.warne@state.sd.us

Fax and email images must contain the signature(s) and the original must be filed in our office within one week following the date the fax/email was received

County, municipal and school candidates file with the person in charge of the local election.

Ballot Question Contribution Statement

State of South Dakota

Complete one of the following three sections that pertain to your organization.

Section 1

State law requires any organization that makes a contribution to a ballot question committee that is not filed as a domestic or foreign entity in good standing with the South Dakota Secretary of States Office, to include Section 1 of this informational statement with any contribution to a ballot question committee.

Full Name of Organization: _____

State or Country under Whose Law the Organization is Incorporated or Organized: _____

Street Address of the Organization's Principle Office: _____

Date: _____ Signature: _____

Section 2

State law requires any organization that makes a contribution to a ballot question committee which is not eligible to complete section 1, must include Section 2 of this informational statement with any contribution to a ballot question committee.

Full Name of Organization: _____

Street Address of the Organization's Principle Office: _____

You must provide the names and street addresses of any owners, directors, or officers of the organization including the name and street address of the person authorizing the contribution.

Name of Organization's Owners, Directors or Officers	Street Address

Name of Person Authorizing the Contribution: _____

Street Address: _____

Date: _____ Signature: _____

Section 3

If any organization contributes more than ten thousand dollars in the aggregate to a ballot question committee and is comprised of twenty or fewer members or shareholders, the organization must submit with the contribution the name and address of each shareholder or member who owns ten percent or more of the organization.

Name of Shareholder or Member	Street Address

Date: _____ Signature: _____

State law requires you to submit this information to the treasurer of the committee you are making the contribution to.

**State of South Dakota
Statement of Financial Interest
Candidate for Public Office**

File statement in the office where your nominating petition or convention nomination certification was filed.

Please read information on reverse side before completing this form.

1. Name _____

2. Address _____

3. Office Sought _____

4. What is your occupation/profession? _____

5. List any enterprise which accounted for more than ten percent of, or contributed more than \$2,000 to, your family's (includes spouse, minor children living at home) gross income in the preceding calendar year. Identify who receives the income from each enterprise.

What is the nature of your immediate family's association with each? The value of the financial interest need not be reported.

6. List any enterprise in which you, your spouse or minor children living at home control more than ten percent of the capital or stock. Identify who has the ownership interest in each enterprise.

What is the nature of your immediate family's association with each?

State of South Dakota)
) SS.
County of _____)

Verification

I have reviewed paragraphs 1 through 6 of the Information Regarding Statement of Financial Interest (attached), my Statement of Financial Interest and certify that the information reported is a complete, true and accurate representation of my financial interests for the preceding calendar year.

(Signed) _____

Sworn to before me this _____ day of _____, 20____.

(Seal)

Officer Administering Oath

My commission expires: _____

Information Regarding Statement of Financial Interest

1. Who Files. This form is to be completed by all candidates filing nominating petitions for United States Senator, United States House of Representatives, Governor, Circuit Court Judge, State Legislature, County Commissioner, School Board Member in a school district with total enrollment of more than two thousand students, or commissioner, council member, or mayor in any first class municipality; all convention nominees for Lieutenant Governor, State Treasurer, Attorney General, Secretary of State, State Auditor, Public Utilities Commissioner and Commissioner of School and Public Lands; and all Supreme Court Justices seeking retention.

2. Deadline. It must be filed in the office where your nominating petition or convention nomination certification was filed within 15 days after that filing.

3. Nature of your association in #5 and #6 means if you were an employee, officer, director, associate, partner, stockholder, member, proprietor, served in an advisory or consulting capacity, or provided professional services. This must be provided for each enterprise which is listed.

4. Definitions of Terms (SDCL 12-25-27)

(1) "Any member of his immediate family," a spouse or minor children living at home;

(2) "Close economic interest," any enterprise that, in the calendar year preceding filing of a statement under any of §§ 12-25-28 to 12-25-30, inclusive, contributes either more than ten percent of or more than two thousand dollars, to the gross income of the family which shall include the individual required to file the statement and any member of his immediate family, or an enterprise in which such individual or any member of his immediate family control more than ten percent of the capital or stock;

(3) "Enterprise," any business or economic relationship [where you were an employee, officer, director, associate, shareholder, member, partner or proprietor];

(4) "Statement of financial interest," a description of the type of financial activity and the nature of the association with the enterprise as provided in subdivision (1) of this section.

5. Penalty (SDCL 12-25-28) Failure to file the statement of financial interest is a petty offense. An intentional violation is a Class 2 misdemeanor.

6. Conflict of Interest Provisions. State officeholders and local government officials are prohibited (with limited exceptions) from doing business with state and local government. Corporations, partnerships and other business entities in which the officeholder holds some interest or control are likewise precluded from doing governmental business. Spouses and other family members of the officeholder may be similarly prohibited (although no definitive court decision has yet been issued). A prohibited contract may be declared void or subject the officeholder to criminal sanctions. Candidates should review all personal and family financial interests accordingly and contact a lawyer with questions.

a) Legislators (Art. III, § 12) This provision of the State Constitution prohibits a legislator from having any interest, direct or indirect, in a contract with the State or county authorized or funded by any law enacted during the legislator's term or one year thereafter.

b) State officers (SDCL 5-23-14.2) This statute prohibits any state officer from being interested in any state contract which the officer has the supervisory power to approve, award or administer.

c) Local government officers (SDCL §§ 6-1-1, 6-1-2, 3-16-7) With limited exceptions local governmental officers, appointed and elected, cannot be interested, directly or indirectly, in contracts with the governmental entity they serve as officers. Contracts that are excepted are detailed in SDCL 6-1-2.

SDCL 12-27 Definitions

- (1) "Ballot question," any referendum, initiative, proposed constitutional amendment, or other measure submitted to voters at any election;
- (2) "Ballot question committee," a person or organization that raises, collects, or disburses contributions solicited for the placement of a ballot question on the ballot or the adoption or defeat of any ballot question. A ballot question committee is not a person, political committee, or political party that makes a contribution to a ballot question committee. A ballot question committee is not an organization that makes a contribution to a ballot question committee from treasury funds;
- (3) "Candidate campaign committee," any entity organized by a candidate to receive contributions and make expenditures for the candidate. Only one candidate campaign committee may be organized for each candidate;
- (4) "Candidate," any person who seeks nomination for or election to public office, and for the purpose of this Act a person is deemed a candidate if the person raises, collects, or disburses contributions in excess of five hundred dollars; has authorized the solicitation of contributions or the making of expenditures; or has created a candidate campaign committee for the purpose of obtaining public office. The person is also deemed a candidate if the person has taken all actions required by state law to qualify for nomination for or election to public office;
- (5) "Clearly identified," the appearance of the name, nickname, a photograph or a drawing of a candidate or public office holder, or the unambiguous reference to the identity of a candidate or public office holder;
- (6) "Contribution," any gift, advance, distribution, deposit, or payment of money or any other valuable consideration, or any contract, promise or agreement to do so; any discount or rebate not available to the general public; any forgiveness of indebtedness or payment of indebtedness by another person; or the use of services or property without full payment made or provided by any person, political committee, or political party whose primary business is to provide such services or property for the purpose of influencing:
 - (a) The nomination, election, or re-election of any person to public office; or
 - (b) The placement of a ballot question on the ballot or the adoption or defeat of any ballot question submitted.

The term does not include services provided by a person as a volunteer for or on behalf of any candidate, political committee, or political party, including the free or discounted use of a person's residence. Nor does the term include the purchase of any item of value or service from any political committee or political party. The purchase price of the item may not exceed the fair market value and may not include an intent to contribute beyond the item's value. A contribution does not include administration and solicitation of a contribution for a political action committee established by an organization and associated expenses, nor the use of an organization's real or personal property located on its business premises for such purposes. A contribution does not include nominal use of a candidate's real or personal property or nominal use of resources available at a candidate's primary place of business;
- (7) "County office," any elected office at a county in this state;
- (8) "Election," any election for public office; any general, special, primary, or runoff election; and any election on a ballot question;

(9) "Expressly advocate," any communication which:

(a) In context has no other reasonable meaning than to urge the election or defeat of one or more clearly identified candidates, public office holders, or the placement of a ballot question on the ballot or the adoption or defeat of any ballot question by use of explicit words of advocacy of election or defeat. The following words convey a message of express advocacy: vote, re-elect, support, cast your ballot for, reject, and defeat; or

(b) When taken as a whole and with limited reference to external events, such as the proximity to the election, may only be interpreted by a reasonable person as containing advocacy of the election or defeat of one or more clearly identified candidates, public office holders, or the placement of a ballot question on the ballot or the adoption or defeat of any ballot question because:

(i) The electoral portion of the communication is unmistakable, unambiguous, and suggestive of only one meaning; and

(ii) Reasonable minds could not differ as to whether it encourages actions to elect or defeat one or more clearly identified candidates, public office holders, or the placement of a ballot question on the ballot or the adoption or defeat of any ballot question or encourages some other kind of action;

(10) "Immediate family," a spouse of a candidate or public office holder, or a person under the age of eighteen years who is claimed by that candidate or public office holder or that candidate's or public office holder's spouse as a dependent for federal income tax purposes or any relative within the third degree of kinship of the candidate or the candidate's spouse, and the spouses of such relatives;

(11) "Independent expenditure," an expenditure made by a person, organization, political committee, or political party to expressly advocate the election or defeat of a clearly identified candidate or the placement of a ballot question on the ballot or the adoption or defeat of any ballot question, but which is not made to, controlled by, coordinated with, requested by, or made upon consultation with a candidate, political committee, or agent of a candidate or political committee. The term does not include administration and solicitation of any contribution for a political action committee established by an organization and associated expenses, nor the use of an organization's real or personal property located on its business premises for such purposes. The term does not include any communication by a person made in the regular course and scope of the person's business or ministry or any communication made by a membership organization solely to any member of the organization and the member's family;

(12) "In-kind," a good or service provided at no charge or for less than its fair market value. The term does not include the value of services provided by a person as a volunteer for or on behalf of any candidate, political committee, or political party, including the free or discounted use of any person's residence or office;

(13) "Legislative office," the Senate and the House of Representatives of the South Dakota Legislature;

(14) "Loan," a transfer of money, property, guarantee, or anything of value in exchange for an obligation, conditional or not, to repay in whole or part;

(15) "National political party," the organization which is responsible for the day-to-day operation of a political party at the national level, as determined by the Federal Election Commission;

(16) "Organization," any business corporation, limited liability company, nonprofit corporation, limited liability partnership, limited partnership, partnership, cooperative, business trust, association, club, labor union, collective bargaining organization, local, state, or national organization to which a labor organization pays membership or per capita fees, based upon its affiliation and membership, trade or professional association that receives its funds from membership dues or service fees, whether organized inside or outside the state, any entity organized in a corporate form under federal law or the laws of this state, or any group of persons acting in concert which is not defined as a political committee or political party in the Act;

(17) "Person," a natural person;

(18) "Political action committee," a person or organization that raises, collects or disburses contributions to influence the outcome of an election and who is not a candidate, candidate campaign committee, ballot question committee, or a political party. A political action committee is not any:

- (a) Person that makes a contribution to a political committee or political party; or
- (b) Organization that makes a contribution to a ballot question committee from treasury funds;

(19) "Political committee," any candidate campaign committee, political action committee, or ballot question committee;

(20) "Political party," any state or county political party qualified to participate in a primary or general election, including any auxiliary organization of such political party. An auxiliary organization is any organization designated as an auxiliary organization in the political party's bylaws or constitution except any secondary or post-secondary student organization that only accepts contributions to support volunteer student activities of the organization and does not make monetary contributions to any political committee;

(21) "Public office," any statewide office, legislative office, or county office;

(22) "Qualified nonprofit corporation," any nonprofit corporation, subject to the provisions of chapters 47-22 to 47-28, inclusive, that was organized for the purpose of promoting political ideas and cannot engage in business activities, has no shareholders or other persons affiliated so as to have a claim on the assets or earnings, was not established by a corporation, and has not accepted more than de minimus amount of funds from any corporation;

(23) "Statewide office," the offices of Governor, lieutenant governor, secretary of state, attorney general, state auditor, state treasurer, commissioner of school and public lands, and public utilities commissioner;

(24) "Volunteer," a person who provides services free of charge.

New 7-1-07